

AMENDED IN ASSEMBLY MARCH 31, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1625**

**Introduced by Assembly Member Richter**

January 5, 1998

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An act to amend Section 6400 of, and to add Sections 12022, 12023, 12024, ~~12025~~, and 12026 to, the Fish and Game Code, relating to fish, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1625, as amended, Richter. Fish and game: penalties.

(1) Existing law makes it a crime to place, plant, or cause to be placed or planted, in any of the waters of this state, any live fish, any fresh or salt water animal, or any aquatic plant, without first obtaining written permission from the Department of Fish and Game.

This bill would make the attempt of that crime also unlawful.

(2) Under existing law, punishment for the crime described in (1) is a fine of not more than \$1,000, imprisonment in the county jail for not more than 6 months, or both the fine and imprisonment.

This bill would, instead, provide for a fine of not less than \$20,000 *and imprisonment in the county jail for not more than 6 months* for each violation and *would* provide for revocation of the defendant's state fishing privileges for 5 years. In addition, the bill would make the defendant liable for all resulting damages, as specified, that were caused by his or her

unlawful activity. ~~The bill would also authorize a court to require a convicted defendant to register with the local chief of police or sheriff, as specified.~~

(3) Existing law defines “aquatic nuisance species” to mean a nonindigenous species that threatens the viability or abundance of a native species, the ecological stability of waters inhabited by those species, or the viability of commercial, agricultural, aquacultural, or recreational activities that depend on those waters.

This bill would make it a felony to use or to attempt to use aquatic nuisance species to commit the crimes described in (1). Under the bill, punishment for this felony would be imprisonment in the state prison for one, 3, or 5 years, revocation of *all of the defendant’s state fishing license for life licenses and permits issued under the Fish and Game Code*, and forfeiture of all ~~real and personal~~ property and equipment owned by the defendant that was used to carry out the crime. In addition, the bill would make the defendant liable for all resulting damages, as specified, that were caused by his or her unlawful activity.

*The bill would except from the above provisions, the placement of any live fish, any fresh or salt water animal, or any aquatic plant from the discharge or exchange of ballast water from any vessel, as defined.*

(4) ~~Existing law continuously appropriates money in the Fish and Game Preservation Fund to be used by the department to carry out and enforce the Fish and Game Code.~~

~~This bill would make an appropriation by authorizing the department to award up to \$50,000 from that fund to a person who provides evidence or information leading to the arrest and conviction of a person or persons found guilty of committing the crimes described in (1). Existing law authorizes the Director of Fish and Game to pay a reward from available funds, as specified, to any person who furnishes information leading to an arrest, a criminal conviction, or a specified punishment for any violation of the Fish and Game Code or any regulation adopted pursuant to that code.~~

*This bill would specify that any person whom the department determines has provided evidence or*

*information leading to the arrest and conviction of a person found guilty of committing the crime described in (1) would be eligible to obtain an award of up to \$50,000.*

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and hereby  
2 declares that the state's sport and commercial fisheries  
3 are resources of great economic and recreational  
4 importance. These resources are jeopardized by the  
5 introduction of a variety of aquatic organisms, and  
6 especially by the introduction of nonindigenous species  
7 that threaten the viability or abundance of a native  
8 species, the ecological stability of waters inhabited by  
9 those species, or the sustainability of commercial,  
10 agricultural, aquacultural, or recreational activities and  
11 the fisheries that depend on those waters. The  
12 Legislature therefore declares that the people of the state  
13 have a primary interest in regulating the placement,  
14 planting, and the attempted placement or planting of any  
15 live fish, any fresh or saltwater animal, or any aquatic  
16 plant in any waters of this state.

17 SEC. 2. Section 6400 of the Fish and Game Code is  
18 amended to read:

19 6400. It is unlawful to place, plant, or cause to be  
20 placed or planted, or to attempt to place, plant, or cause  
21 to be placed or planted, in any of the waters of this state,  
22 any live fish, any fresh or salt water animal, or any aquatic  
23 plant, whether taken without or within the state, without  
24 first submitting it for inspection to, and securing the  
25 written permission of, the department.

1 SEC. 3. Section 12022 is added to the Fish and Game  
2 Code, to read:

3 12022. (a) Notwithstanding Section 12002, a person  
4 who violates Section 6400 shall be liable for a fine of not  
5 less than twenty thousand dollars (\$20,000) *and shall be*  
6 *sentenced to imprisonment in the county jail for not more*  
7 *than six months* for each violation. In addition, that  
8 person's state fishing license privileges shall be suspended  
9 for five years. *The court, in the interest of justice, may*  
10 *grant probation or suspend the imposition or execution of*  
11 *the imprisonment sentence only.*

12 (b) In addition to subdivision (a), a person who  
13 personally or through another violates Section 6400 is  
14 liable to the owner of any privately or publicly owned  
15 property for any damages to that property caused by the  
16 violation. A person who violates Section 6400 shall also be  
17 liable for all monetary damages directly, indirectly, and  
18 proximately caused thereby, including, but not limited to,  
19 damages to any commercial fishery, sport fishery, or to  
20 the public communities that depend upon those fisheries  
21 for a portion of their annual income. The Attorney  
22 General may file a civil action on behalf of the fisheries  
23 or communities that are damaged as a result of the  
24 violation. In addition, a private citizen who suffers  
25 damages as a result of the violation may file a civil action  
26 against the violator.

27 SEC. 4. Section 12023 is added to the Fish and Game  
28 Code, to read:

29 12023. (a) A person who violates Section 6400  
30 through the use or attempted use of an aquatic nuisance  
31 species, as defined in Section 6431, is guilty of a felony.  
32 The punishment for this felony shall include all of the  
33 following:

34 (1) Imprisonment in the state prison for one, three, or  
35 five years. The court may also impose a fine of not less  
36 than fifty thousand dollars (\$50,000) for each violation.

37 ~~(2) Revocation of his or her state fishing license~~  
38 ~~privileges for life.~~

39 (2) *Revocation of all of the defendant's licenses and*  
40 *permits issued pursuant to this code.*

1 (3) Forfeiture of all ~~real or personal~~ property and  
2 equipment used in carrying out the violation, including,  
3 but not limited to, ~~residences, places of business,~~ boats,  
4 motors, ~~motor vehicles,~~ trailers, and fishing or other  
5 equipment.

6 (b) A person who personally or through another  
7 violates Section 6400, through the use or attempted use of  
8 an aquatic nuisance species, is liable to the owner of any  
9 privately or publicly owned property for any damages to  
10 that property caused by the violation. A person who  
11 violates Section 6400 shall also be liable for all monetary  
12 damages directly, indirectly, and proximately caused  
13 thereby, including, but not limited to, damages to any  
14 commercial fishery, sport fishery, or to the public  
15 communities which depend upon those fisheries for a  
16 portion of their annual income. The Attorney General  
17 may file a civil action on behalf of the fisheries or  
18 communities that are damaged as a result of the violation.  
19 In addition, a private citizen who suffers damages as a  
20 result of the violation may file a civil action against the  
21 violator.

22 (c) A person who allows an aquatic nuisance species to  
23 escape from his or her property to the property of  
24 another, whether privately or publicly owned, is liable to  
25 the owner of the intruded upon property for any damages  
26 caused by the species.

27 (d) *This section shall not apply to the placement of any*  
28 *live fish, any fresh or salt water animal, or any aquatic*  
29 *plant from the discharge or exchange of ballast water*  
30 *from any vessel as defined by Section 21 of the Harbors*  
31 *and Navigation Code.*

32 SEC. 5. Section 12024 is added to the Fish and Game  
33 Code, to read:

34 12024. (a) In addition to Sections 12022 and 12023, a  
35 person who violates Section 6400 is liable for all public and  
36 private response, treatment, and remediation efforts  
37 resulting from the violation. The cost of these efforts shall  
38 constitute a debt of that person, and shall be collectible  
39 by the federal, state, county, public agency, or private  
40 individual or individuals, incurring those costs in the same

1 manner as in the case of an obligation under a contract,  
2 expressed or implied.

3 (b) Public agencies participating in a response to a  
4 violation of Section 6400 may designate one or more of the  
5 participating agencies to bring an action to recover costs  
6 incurred by all of the participating agencies.

7 (c) The costs relating to an accounting for a violation  
8 of Section 6400 and the collection of any funds, including,  
9 but not limited to, the administrative, legal, and public  
10 relations costs of operating a response and remediation  
11 program may also be the subject of an action to recover  
12 costs which are charged against the responsible person.

13 ~~SEC. 6. Section 12025 is added to the Fish and Game~~  
14 ~~Code, to read:~~

15 ~~12025. Upon a conviction for the violation of Section~~  
16 ~~6400, the court may impose, in addition to any other~~  
17 ~~penalty or fine prescribed by law, a requirement that the~~  
18 ~~person register with the chief of police of the town or city~~  
19 ~~in which he or she is domiciled, or with the sheriff of the~~  
20 ~~county if he or she is domiciled in an unincorporated area,~~  
21 ~~within 30 days of coming into any county or city in which~~  
22 ~~he or she temporarily resides or is domiciled for that~~  
23 ~~length of time. That person shall register as a convicted~~  
24 ~~violin of Section 6400. The city or county shall~~  
25 ~~immediately report the name and residence location of~~  
26 ~~that person to the local fish and game warden and the~~  
27 ~~department's regional manager in writing. The person~~  
28 ~~shall be required annually thereafter, within five working~~  
29 ~~days of his or her birthday, to update his or registration~~  
30 ~~with the entities described in this section, including~~  
31 ~~verifying his or her name and address as may be required~~  
32 ~~by those entities.~~

33 ~~SEC. 7.—~~

34 ~~SEC. 6. Section 12026 is added to the Fish and Game~~  
35 ~~Code, to read:~~

36 ~~12026. Any person whom the department determines~~  
37 ~~has provided evidence or information leading to the~~  
38 ~~arrest and conviction of a person or persons found guilty~~  
39 ~~of violating Section 6400, is eligible to obtain a reward of~~  
40 ~~up to fifty thousand dollars (\$50,000) from the Fish and~~

1 ~~Game Preservation Fund, as determined by the~~  
2 ~~department.~~

3 ~~SEC. 8.~~ *pursuant to Section 2586.*

4 SEC. 7. No reimbursement is required by this act  
5 pursuant to Section 6 of Article XIII B of the California  
6 Constitution because the only costs that may be incurred  
7 by a local agency or school district will be incurred  
8 because this act creates a new crime or infraction,  
9 eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section  
11 17556 of the Government Code, or changes the definition  
12 of a crime within the meaning of Section 6 of Article  
13 XIII B of the California Constitution.

14 Notwithstanding Section 17580 of the Government  
15 Code, unless otherwise specified, the provisions of this act  
16 shall become operative on the same date that the act  
17 takes effect pursuant to the California Constitution.